

# LICENSEE BULLETIN

Vol. 56, No. 1

VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

## Instructions for Operating Under a Mixed Beverage Restaurant License, Mixed Beverage Carrier License or Mixed Beverage Caterer's License or Mixed Beverage Caterer's License.

Listed below are a number of instructions based upon the more important Mixed Beverage Laws and Regulations.

**All employees should be fully acquainted with these instructions,** which are intended to supplement the present instructions for operating under a Retail Alcoholic Beverage License set forth in Licensee Bulletin 56-2.

1. A "**Mixed Beverage**" means a spirits drink composed in whole or in part of alcoholic beverages containing more than 14% alcohol by volume.
2. The provisions of the law pertaining to wine and beer are applicable to the handling of mixed beverages unless such provisions are expressly inapplicable or are plainly inconsistent with the Mixed Beverage Laws.

### **Classes of Mixed Beverage Licenses:**

1. If the Mixed Beverage License was issued for a "**restaurant**," mixed beverages may be sold and served only in dining rooms and designated rooms specially approved by the Board on the premises, including dining rooms while in use for private meetings and private parties. The only exception to this rule is that if the restaurant is located on the premises of a hotel or motel with not less than four bedrooms where food and beverage service is customarily served by the restaurant in bedrooms and other private rooms of such hotel or motel, such license shall also authorize the sale and service of mixed beverages as well as original closed containers of spirits for consumption in such bedrooms and other private rooms. The latter merchandise may be sold only to registered guests and at scheduled functions of the hotel or motel, and deliveries may be made only in their bedrooms or to the sponsoring group in the private room(s) of such a function for consumption in such room(s).
2. If the Mixed Beverage License was issued for a **caterer**, mixed beverages may be sold and served, for on-premises consumption, to persons attending private gatherings or at special events.

3. If the Mixed Beverage License was issued for a "**hotel**," including a "**motel**," with a restaurant located on the premises and operated by the hotel, mixed beverages may be sold and served in the dining rooms and designated rooms of the restaurant and in the bedrooms and other private rooms of the hotel. The hotel must consist of not less than four permanent bedrooms where food and beverage service is customarily provided in bedrooms and other private rooms of such hotel or motel. Further, original closed containers of spirits may be sold only to registered guests and at scheduled functions, and deliveries may be made in their bedrooms or to the sponsoring group in the private room of such a function for consumption in such rooms. "**Miniatures**" may be sold by retail establishments licensed as hotels, or restaurants upon the premises of hotels, to sell mixed beverages. Such licensees may sell miniatures only for consumption in bedrooms and in private rooms during a scheduled private function. **A miniature is a bottle containing 50 milliliters of distilled spirits.**
4. If the Mixed Beverage License was issued for a "**resort complex**," mixed beverages may be sold and served in all areas within the resort complex. Nothing shall prohibit any person from keeping and consuming lawfully acquired spirits in bedrooms or private rooms.
5. If the Mixed Beverage License was issued to a "**club**" with a restaurant located on the premises of and operated by the club, mixed beverages may be sold and served in the dining rooms and designated rooms of the restaurant portion and in other rooms on the premises, including private guest rooms.

A club located on the premises of a hotel or motel may purchase its meals requirements from a restaurant in the hotel or motel for service in the club's restaurant provided the club and its restaurant qualify for its mixed beverage license in all other respects. A Mixed Beverage License may be issued to any restaurant which is located on the premises of and operated by a private club exclusively for its members and their guests and which does not restrict its membership on the basis of race, color, creed, national origin or sex, even though the locality has not held a local referendum authorizing the sale of mixed beverages in the locality.

6. Mixed Beverage Licenses issued for **common carriers** of passengers authorizes the sale and service of mixed beverages in the following places:
  - a. Trains - Dining cars; buffet cars; club cars.
  - b. Ships - Dining rooms and designated rooms.
  - c. Airplanes - Passenger areas, while in transit; also designated rooms in airports.

## Restrictions:

1. **Counters:** A counter is defined as having a flat top surface supported by legs, a pedestal or a solid base, designed to accommodate the serving of food and refreshments (though such food and refreshments need not necessarily be served together) and to provide seating for customers.

In no event, shall the number of individual seats at free standing tables and in booths be less than the number of individual seats at counters.

2. **Meals:** Meals cooked or prepared on the premises must be furnished **regularly and habitually** to persons in dining rooms and such meals must be available during substantially **all hours** mixed beverages are offered for sale in such rooms. Food and nonalcoholic beverage sales must account for at least **forty-five percent (45%)** of the gross sales of mixed beverages and food.

Food prepared on the premises must be available in designated rooms at all times mixed beverages are offered for sale in these rooms.

3. **Hours of Sales:** Mixed beverages may not be sold or permitted to be consumed upon licensed premises other than at such times as wine or beer may be sold and consumed. Original closed containers of spirits may be sold in hotels and motels only during such hours.

4. **Purchase:** All alcoholic beverages to be sold as mixed beverages or in closed containers must have been **purchased from the Board**, except merchandise to be sold on carriers which may be obtained under special procedures.

Purchase of alcoholic beverages from the Board for resale under a mixed beverage license must be made on **purchase order forms** to be provided without cost by the Board and in accordance with the instructions contained in such forms. The prices will be those prevailing at the government stores. Payment must be made by cash, certified check, money order, cashier's check, credit card or a valid check drawn on a bank account in the name of the licensee or in the trade name of the licensee.

Merchandise not available at government stores may be ordered specially from the Board in accordance with the rules applicable to such orders.

5. **Transportation:** Alcoholic beverages purchased from the Board for resale under a mixed beverage license may be transported to the establishment of the purchasing licensee under the purchase order form executed by an agent of the Board and placed in an approved place for storage pending withdrawal for use in the establishment.

6. **Storage:** Alcoholic Beverages purchased for resale under a mixed beverage license must be stored in a **separate and secured place** designated for that purpose on the premises and may be withdrawn only as needed. Only a licensee or duly authorized employees may withdraw

merchandise from such a place of storage.

Alcoholic beverages purchased for resale under the mixed beverage license may not be removed from the licensed premises except upon a permit issued by the Board.

As a general rule, mixed beverage licensees operating establishments other than hotels, resort complexes including motels, and clubs may not keep or allow to be kept upon their licensed premises any alcoholic beverages, or beverages they are not authorized to sell. The only exceptions to this rule are culinary alcoholic beverages, which may be kept and used in such places under special permits issued by the Board, and personal alcoholic beverages of persons attending certain types of private parties. Contact your local Special Agent for further details.

7. **Stamps:** The mixed beverage stamps on containers of spirits purchased from the Board for resale under a mixed beverage license must be imprinted thereon the purchase order number and the license number of the retailer, if such has not already been done. Immediately upon emptying a container of spirits, the mixed beverage stamp must be obliterated.
8. **Premixing:** Mixed beverages may not be prepared in advance but only pursuant to a customer's order, except that mixed beverages may be premixed in frozen drink dispensers of types approved by the Board as well as other premixing options. Contact your local Special Agent for further details.
9. **Containers:** Mixed beverages may be made only from alcoholic beverages packaged in their original containers, and, except as noted for hotels, resort complexes, and motels herein, no original bottle may be delivered to a consumer, whether the closure be broken or unbroken. Any dispenser used must include the original container as a part of the device, except for frozen drink dispensers referred to in item 8, above.
10. **Advertising:** Do not engage in any form of advertising which is prohibited by the Regulations of the Board. It is suggested the local Special Agent be contacted regarding other advertising.

Representatives of manufacturers, etc. of distilled spirits may solicit mixed beverage licensees to sell or offer for sale distilled spirits only in a manner prescribed by Board Regulation. It is suggested that the local Special Agent be contacted for further details.

11. **Happy Hour.** Happy hour may not be conducted during the hours of **9:00 p.m. to 2:00 a.m.** each day. Happy hour is defined as a specified period of time during which alcoholic beverages are sold at prices reduced from the customary price established by you.

The following practices are prohibited:

- A person may not possess more than **two drinks** at any one time during a happy hour. A drink is defined as any beverage containing the amount of alcoholic beverages customarily served to a person as a single serving.

- The volume of alcoholic beverages contained in a drink may not be increased at any time without increasing proportionately the customary or established retail price charged for such drink.
- Two or more drinks may not be sold for one price, such as **"two for one" or "three for one"** at any time.
- Mixed Beverages may never be sold in pitchers
- Drinks may never be given away
- An unlimited number of drinks may not be sold for one price, such as **"all you can drink for \$5.00"** at any time. Packaged deals (i.e. New Year's Eve gatherings, etc) must specify a limited number of drinks.
- Happy hour may not be advertised in the media or on the exterior of the licensed premises.

These rules shall not apply to prearranged private parties, functions, or events, not open to the public, where the guests thereof are served in a room or rooms designated and used exclusively for private parties, functions or events.

12. **Contents:** A mixed beverage may not contain beer, and a customer may not be served a brand of any alcoholic beverage different from that ordered by him. The contents of an original bottle of alcoholic beverage **may not be diluted** or otherwise tampered with and empty bottles may not be refilled or partly refilled.
13. **Age: Employees:** Minor employees under **eighteen (18) years of age** may not be permitted to sell, serve or dispense any alcoholic beverages in any manner for consumption on the licensed premises. Persons under **twenty-one (21) years of age** may not be allowed to prepare or mix or serve any customer any alcoholic beverages in the capacity of a bartender.
14. **Consumption:** A licensee may not consume nor may he allow the consumption of any mixed beverage, other alcoholic beverage by any employee of his establishment while on duty.
15. **Intoxication:** A licensee **may not be intoxicated** while on duty nor may an employee be on the licensed premises while intoxicated.
16. **Records:** **Complete, accurate and separate records must be maintained** covering purchases and sales of foods and nonalcoholic beverages as well as purchases and sales of alcoholic beverages, particularly alcoholic beverages sold as mixed beverages by the drink and in original, closed containers. Sales tickets in particular should show separately the type or types of food and nonalcoholic beverages sold and the type or types of alcoholic beverages sold.

17. **Serving:** Do not mix beer with wine or spirits. **No more than two (2) spirits drinks may be served to a patron at a time.**

#### **Mixed Beverage Caterer's Licenses:**

If the mixed beverage caterer's license was issued pursuant to Section 4.1-210 A.2. the following applies:

- a. An established place of business with catering gross sales averaging **at least \$4,000 per month** which has complied with the requirements of the local governing body concerning sanitation, health, construction or equipment and which has obtained all local permits or licenses required to conduct such a catering business.
- b. The caterer shall notify the Board **in writing at least 2 calendar days in advance** of any events to be catered under his license for the following month. The notice shall include the date, time, location and address of the event and the name of the sponsoring person, group, corporation or association.
- c. The **records required** to be kept by § 90 of 3 VAC-5-70 shall also be maintained by caterers.
- d. The **annual gross receipts** from the sale of food cooked and prepared for service at gatherings and events and the sale of nonalcoholic beverages served there shall amount to at least **45%** of the gross receipts from the sale of mixed beverages and food.

Contact your local Special Agent for further details, as the caterer's license applies only to the sponsorship of private gatherings or special events as defined in the Alcoholic Beverage Control Laws.

**Special Occupational Tax:**

~~This is a Special Occupational Tax administered by the Bureau of Alcohol, Tobacco and Firearms (BATF), United States Department of Treasury.~~

**This Tax Has Been Suspended until June 30, 2008**

Retail Wine, Beer and Mixed Beverages Licensees .....	\$250.00
Wholesale Wine and Beer Distributors .....	\$500.00
Beverages .....	\$1000.00/ \$500.00*
Distilled Spirits Plants .....	\$1000.00/ \$500.00*
Farm Wineries and Wineries .....	\$1000.00/ \$500.00*

\* The \$500.00 rate is for businesses with gross sales less than \$500,000.00.

**\*\*Note:** This is an annual federal tax for which the **Virginia Alcoholic Beverage Control Board** has no responsibility. If you have any questions, please contact the BATF office nearest you:

Norfolk  
Roanoke

Richmond  
Falls Church

**Licensee Bulletin Update:**

This Licensee Bulletin supersedes Licensee Bulletin 54-1, dated December 30, 1988, addressed to the same persons on the same subject. The last document of this nature was Licensee Bulletin 54-4, dated December 30, 1988, addressed to Each Person Holding A Retail Alcoholic Beverage Control License For A Club. Subject: Rules For Operating A Licensed Club.

VIRGINIA DEPARTMENT OF  
ALCOHOLIC BEVERAGE CONTROL

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